

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**May 5, 2003**

**IN RE:**

**PETITION FOR APPROVAL OF  
AMENDMENT TO INTERCONNECTION  
AGREEMENT BETWEEN BELL SOUTH  
TELECOMMUNICATIONS, INC. AND  
MEMPHIS NETWORKX LLC**

**DOCKET NO. 03-00089**

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**ORDER APPROVING  
FOURTH AMENDMENT TO INTERCONNECTION AGREEMENT**

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This matter came before Director Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on April 7, 2003, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fourth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Memphis Networkx LLC.

The original interconnection agreement and first amendment between these parties were filed on September 17, 2001, and were assigned Docket No. 01-00806. The second amendment was filed on October 9, 2001, in Docket No. 01-00806. The original interconnection agreement and the first and second amendments were considered at a regularly scheduled Authority Conference on December 4, 2001, and again at an Authority Conference held on December 5, 2001.<sup>1</sup> Thereafter, a majority<sup>2</sup> of the Directors voted to allow the agreement to go into effect on December 17, 2001, pursuant to Section

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<sup>1</sup> See *In Re: Petition for Approval of the Interconnection Agreement and Amendment Thereto Negotiated Between BellSouth Telecommunications, Inc. and Memphis Networkx Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996*, TRA Docket No. 01-00806, Order (March 28, 2002).

<sup>2</sup> The terms of the former Directors of the Authority, Chairman Sara Kyle, Director H. Lynn Greer, Jr., and Director Melvin J. Malone, expired on June 30, 2002. Chairman Sara Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three member voting panel consisting of Director Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones was randomly selected and assigned to this docket.

252(e)(4) of the Act. The third amendment was filed on May 21, 2002, under Docket No. 02-00589, and was approved at a regularly scheduled Authority Conference on July 23, 2003. The fourth amendment, which is the subject of this document, was filed on February 4, 2003.

Based upon a review of the fourth amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>3</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.
- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

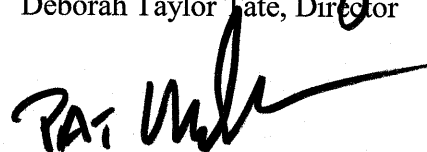
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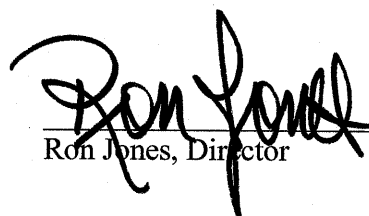
<sup>3</sup> See 47 U.S.C. § 252(e)(2)(B).

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the fourth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and the Memphis Networkx LLC is approved and is subject to the review of the Authority as provided herein.

  
Deborah Taylor Tate, Director

  
Pat Miller, Director

  
Ron Jones, Director